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1 — Radioactive chemical spill occurred last fall at University of Tulsa, officials announce, Tulsa World, 9/1/2015

http://www.tulsaworld.com/news/health/radioactive-chemical-spill-occurred-last-fall-at-university-of-tulsa/article_ff7e5a0a-1749-5dfd-982c-6920d09d0483.html

Authorities are working to clean up a year-old radioactive chemical spill on the University of Tulsa's north research campus that was just brought to university officials' attention last week.

2 — Railroad Commission: XTO not to blame for Azle earthquakes, Dallas Morning News, 8/31/2015

<http://www.dallasnews.com/business/energy/20150831-railroad-commission-xto-not-to-blame-for-azole-earthquakes.ece>

A state inquiry into a series of earthquakes around Azle has ruled out at least one connection to the oil and gas industry.

3 — Houston Seeks to Keep Power to Police Air Pollution, Texas Tribune, 9/1/2015

<https://www.texastribune.org/2015/09/01/state-supreme-court-will-address-pollution-enforce/>

State environmental regulators don't adequately enforce air pollution laws, the city of Houston believes, and on Wednesday it will ask the state's highest civil court to let it keep trying to do the job itself.

4 — Texas Tech Researchers Help Assess damage of toxic river spill, KAMC Lubbock, 8/31/15

<http://www.everythinglubbock.com/news/kamc-news/texas-tech-researchers-help-assess-damage-of-toxic-river-spill>

A team of Texas Tech researchers are headed to northwest New Mexico to help assess the damage from the toxic spill into the Animas River.

5 — EPA granted access to land in county used for dumping chat, Miami News-Record, 8/31/2015

http://www.miamiok.com/news/article_9ae254d5-70c7-5e00-a79d-4e598bcbfd8.html

Ottawa County Commissioners approved a measure that allows the Environmental Protection Agency access to a parcel of land in the Meh Hunka Zhe Ka Beaver Allotment in the county during their weekly meeting Monday morning.

6 — Brain-eating amoeba kills 14-year-old Houston star athlete, CNN reports, New Orleans Times-Picayune, 8/31/2015

http://www.nola.com/environment/index.ssf/2015/08/brain-eating amoeba kills 14-y.html#incart_river

A brain eating-amoeba, which killed a boy in St. Bernard Parish in 2013, claimed the life Sunday (Aug. 30) of a 14-year-old Houston star athlete, CNN reports.

7 — Navajo Nation preps lawsuit against EPA over mine spill, The Hill, 8/27/2015

<http://thehill.com/policy/energy-environment/252361-navajo-nation-preps-lawsuit-against-epa-over-mine-spill>

The Navajo Nation contends that the EPA's Aug. 5 accident in Colorado, which made national headlines after turning portions of the Animas River bright yellow, also leaked hazardous substances into the San Juan River — one of the Navajo Nation's primary water sources.

8 — EPA prevented toxic brew from moly mine, Aspen Times, 8/31/2015

<http://www.aspentimes.com/news/17950129-113/epa-prevented-toxic-brew-from-moly-mine>

The Rio Grande flows past Taos. Could it have become as polluted from mining as the Animas River was through Durango?

9—Arguments OK'd in scope of injunction against federal water rule, Arkansas Democrat-Gazette, 8/31/2015

<http://www.arkansasonline.com/news/2015/aug/31/arguments-okd-expansion-injunction-against-federal/?latest>

A federal judge in North Dakota is allowing arguments over the scope of his injunction blocking a new rule that would give the federal government jurisdiction over some smaller waterways.

10—Courts rule differently on federal water rule, making status unsettled, New Orleans Times-Picayune, 8/31/2015

http://www.nola.com/politics/index.ssf/2015/08/courts_rule_differently_on_fed.html

Three separate federal court rulings have left unsettled the status of the Obama administration's controversial plan to expand federal Clean Water Act authority over streams and wetlands.

11—Brushes with disaster (editorial), Cortez (CO) Journal, 8/31/2015

<http://www.cortezjournal.com/article/20150831/OPINION01/150839971/Brushes-with-disaster->

Comparing the initial events associated with the unexpected water release from the Gold King Mine above Silverton with the landfall of Hurricane Katrina at New Orleans 10 years ago provides some initial, but limited, comparisons.

12—EPA's Clean Power Plan and Europe's folly (opinion), The Hill, 8/28/2015

<http://thehill.com/blogs/pundits-blog/energy-environment/252292-epas-clean-power-plan-and-europes-folly>

The Environmental Protection Agency's (EPA) final Clean Power Plan (CPP) to reduce carbon dioxide pulls a colossally damaging and futile national energy plan out of a bureaucrat's hat. Who needs congressional authorization by law to dismember the engineering marvel that is our national electric power system?

13—SunZia transmission line holds to original route, Albuquerque Journal, 8/29/2015

<http://www.abqjournal.com/637073/news-around-the-region/sunzia-transmission-line-moves-forward-holds-to-original-route.html>

The SunZia power transmission line, planned to carry renewable energy across New Mexico, Arizona and California, appears to be back on its original track following a request by the State Land Office to review a route north of the White Sands Missile Range call-up area.

14—Squealing 'pigs' work to keep pipelines safe, The Oklahoman, 8/28/2015

<http://newsok.com/squealing-pigs-work-to-keep-pipelines-safe/article/5442863>

To keep the country's pipeline infrastructure safe and free of leaks and accidents, operators turn to a variety of foam or metal contraptions affectionately known as pigs.

15—Womack praises N.D. court's injunction against EPA water rule, Ripon Advance, 9/1/2015

<http://riponadvance.com/stories/510636097-womack-praises-n-d-court-s-injunction-against-epa-water-rule>

Responding to the recent decision by North Dakota's U.S. District Court to grant a preliminary injunction against the Environmental Protection Agency's (EPA) controversial Waters of the United States (WOTUS) rule, U.S. Rep. Steve Womack (R-AR) released a statement in support of the action on Monday.

16—EPA climate rule could take two more months to become official, The Hill, 8/31/2015

<http://thehill.com/policy/energy-environment/252374-epa-climate-rule-could-take-2-months-for-formal-publication>

It could take up to two months for the Obama administration to make its climate rule for power plants official by publishing it in the Federal Register.

Radioactive chemical spill occurred last fall at University of Tulsa, officials announce

By PAIGHTEN HARKINS World Staff Writer | Posted: Tuesday, September 1, 2015 3:15 am

Authorities are working to clean up a year-old radioactive chemical spill on the University of Tulsa's north research campus that was just brought to university officials' attention last week.

Tracerco, a company contracted through TU, spilled a small amount of the radioactive isotope cesium-137 in the Process Building on TU's North Campus in the fall 2014 semester, but university officials just learned of the spill Aug. 25, university spokeswoman Mona Chamberlin said.

After university officials learned of the spill, they restricted access to the building and notified the Oklahoma Department of Environmental Quality, which has since been investigating. University officials sent a campus-wide email about the spill on Monday.

"We were really blindsided," Chamberlin said.

Calls and emails to Tracerco representatives were not returned before press time.

At least 21 people will be evaluated for potential exposure to the chemical, said Dr. Gerard Clancy, vice president of health affairs for TU.

Those individuals will go through an initial assessment and undergo a medical examination. After that, a clinician will continue to monitor their conditions, Clancy said.

"No matter what, we're going to follow these people carefully and make sure nothing falls through the cracks," he said.

In this case, university officials aren't worried about the immediate effects of radiation, such as radiation sickness and burns. Instead, they are worried about the long-term effects, which include an increased risk of cancer, Clancy said.

Individuals can be at risk depending on the amount of time exposed and proximity to the radiation.

While some risk is involved for people who worked around the spill, the risk for those who didn't is "exceedingly low," said Scott Holmstrom, associate professor of physics and campus radiation safety officer.

The North Campus, at 2450 E. Marshall St., east of Lewis Avenue between Independence and Pine streets, is restricted to certain people, and its individual buildings are restricted to those who work there, university officials said.

Those who were at the North Campus but weren't working directly with the research team in the Process Building after the spill have very little risk of exposure, according to a statement from TU.

One of the issues with this spill, which was about the size of a teaspoon, is that it wasn't reported for almost a year, meaning it has spread through the lab.

"Just imagine if one of your kids dropped jelly in the kitchen. People are going to step in it. It's going to move it around. You mop it; you're going to spread it around," Holmstrom said.

While spills like this can be spread from contact with people's clothing to areas outside of the lab, there's no evidence that this happened with this spill, Holmstrom said.

The university is working with authorities from the Oklahoma Department of Environmental Quality and Tracerco to clean the spill, according to the statement from TU.

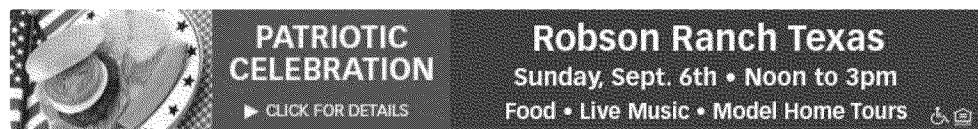
What is cesium?

Cesium is a commonly used radioactive isotope that emits two types of radiation: beta particles and gamma rays. These types of radiation have enough energy to damage human tissue.

Just as UV rays from the sun can damage the outside of someone's skin, these types of radiation have enough energy to penetrate through the skin and damage the inside of a body, Holmstrom said.

TU researchers regularly use cesium to measure fluid density, which is especially useful in petroleum research, Holmstrom said.

Researchers were using the cesium in multiphase flow loops, which simulate what happens when oil is pulled out of the ground, Holmstrom said. In this instance, researchers were using the cesium for a joint industry project managed by the university's Petroleum Engineering Department.



81° Tuesday, September 1, 2015

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Railroad Commission: XTO not to blame for Azle earthquakes

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By JAMES OSBORNE

Staff Writer

Published: 31 August 2015 08:45 PM

Updated: 31 August 2015 08:47 PM

A state inquiry into a series of earthquakes around Azle has ruled out at least one connection to the oil and gas industry.

In preliminary findings released Monday, investigators with the Texas Railroad Commission found a disposal well operated near Azle by XTO Energy was unlikely to have caused the seismic activity that shook the town in late 2013.

That contradicts a study released by geologists at Southern Methodist University in April, showing evidence that the earthquakes were caused by two disposal wells, one operated by XTO, a subsidiary of Exxon Mobil, and another by Houston-based Enervest.

A ruling on the Enervest well has not been released.

Reaching thousands of feet underground, disposal wells are used to store the large volumes of wastewater that are a byproduct of oil and gas drilling. A body of scientific research stretching back to the 1960s has found those wells can leak into adjacent fault lines, setting off seismic activity.

But the Railroad Commission has expressed skepticism on the connection. Earlier this year, in-house seismologist Craig Pearson said the SMU study, which was conducted in

conjunction with the U.S. Geological Survey, "raises many questions with regard to its methodology, the information used and conclusions it reaches."

The commission's stance has angered many around Azle, who believe the agency is not taking the risk factors seriously.

"It appears to me the Railroad Commission's main purpose is to protect the oil and gas industry, not regulate it," said Azle Mayor Alan Brundrett. "I'm not against oil and gas drilling; we need the energy production. It just needs to be done in a responsible manner."

Earthquake activity has spiked around oil- and gas-producing regions in recent years. Oklahoma recorded more than 5,000 quakes last year, more than California. North Texas has experienced earthquake clusters since 2008, mostly recently around Irving, where seismic events reaching more than 3.0 on the Richter scale have been recorded.

The findings released Monday followed hearings held by the Railroad Commission this summer to determine whether the injection wells needed to be shut down, drawing on testimony from both XTO and Enervest and scientists from SMU.

The ruling has not yet been finalized by the Railroad Commission; parties have 15 days to file objections.

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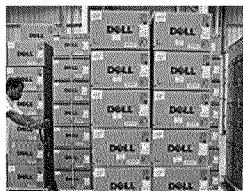
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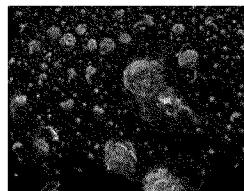
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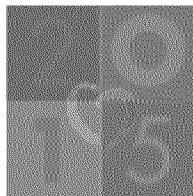
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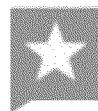
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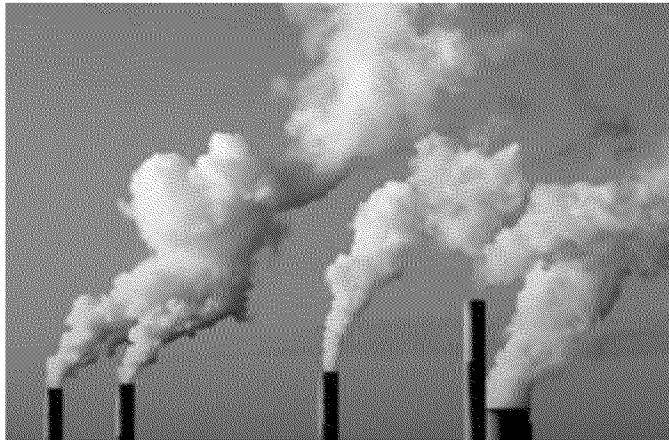
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THE TEXAS TRIBUNE

Houston Seeks to Keep Power to Police Air Pollution

by Jordan Rudner | Sept. 1, 2015



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environmental regulators don't adequately enforce air pollution laws, the city of Houston believes, and on Wednesday it will ask the state's highest civil court to let it keep trying to do the job itself.

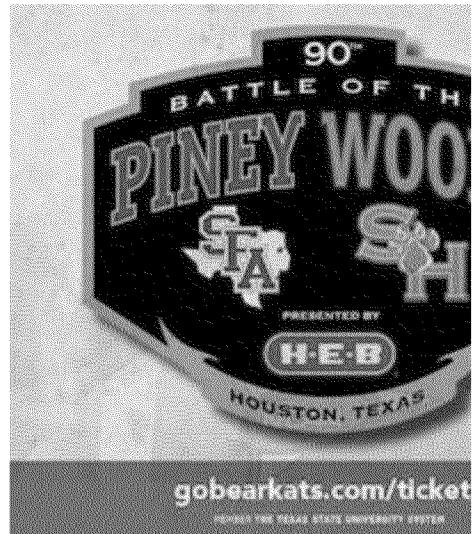
The state Supreme Court will hear arguments in a case challenging a pair of ordinances the city enacted in 2007 and 2008 requiring industrial polluters within Houston to register with the city, and subjecting the polluting companies to fines if they operate without registering.

BCCA Appeal Group, a coalition of industrial facility owners including ExxonMobil and the Dow Chemical Company, sued

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the city seven years ago, claiming the ordinances improperly preempt state law. The First District Court of Appeals has already weighed in on Houston's side, finding in 2013 that the Legislature had not foreclosed such local regulations with anything resembling "unmistakable clarity."

In its appeal to the Supreme Court, BCCA argues that the city is allowed to enforce air regulations only if it uses the weaker enforcement tools laid out by the state.

But Houston, and a host of environmental groups filing amicus briefs in the city's support, say it is perfectly within its rights to enforce state laws using alternative regulatory strategies, including levying fines where the state won't.



"The city's looking for accountability, and this is a streamlined way of trying to do that," said Rock Owens, who co-authored an amicus brief submitted by the Harris County Attorney's Office. "There should be something that happens if you don't follow the law, and the [Texas Commission on Environmental Quality] isn't in a position where they can provide enforcement. They don't have the resources, or, frankly, the will."

Owens said he believes the Houston ordinances simply put some muscle behind the regulations the commission laid out. "It's just a matter of layering — a matter of making the law effective," Owens said.

But Gov. Greg Abbott, who filed an amicus brief in support of the BCCA, argued that Houston already has appropriate avenues for enforcing the state's air pollution regulations. Abbott said the city's tougher efforts to combat air pollution are both overzealous and illegal.

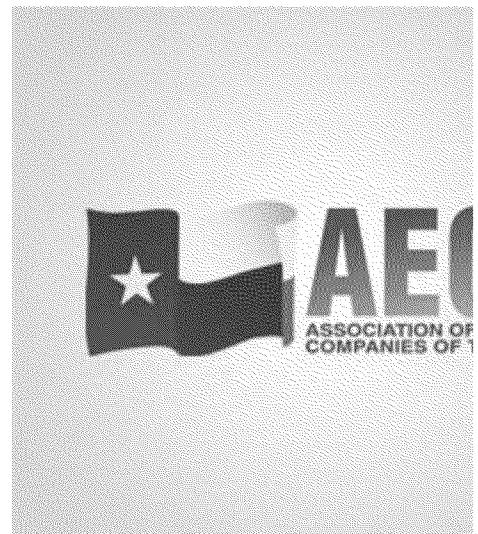
He emphasized the potential impact tighter, local regulations would have on small businesses.

"The Governor seeks to raise a concern that has not received enough attention in this case: the devastating consequences that the ordinance will impose on Houston's small businesses, such as auto repair shops, gas stations, and dry cleaners, if the City is allowed to pursue its aggressive approach to

Texas Supreme Court Hearing School Finance Appeal

by Kiah Collier | 3 hours 40 minutes ago

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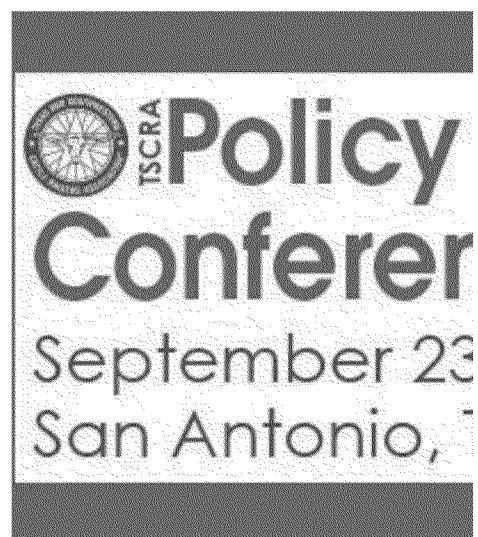


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environmental regulation," the brief stated.

Given how political tides recently have turned against local efforts to police industries, Adrian Shelley, executive director of Air Alliance Houston, said he isn't optimistic about the city's chances in front of the state's highest civil court.

Shelley cited House Bill 40, signed by Abbott in May, which preempts local control over most oil and gas activity, as one reason for his concern.

"I think it needs to be said that there's a larger trend here — a problematic trend — and that's bad for public health in Texas," Shelley said. "We're likely to lose this case."

In the last several years, Houston has become an epicenter for environmental policy debates. Its aggressive anti-pollution policies have been a source of friction with lawmakers who say they want to avoid a patchwork of varying regulations across the state.

In January, AT&T agreed to pay Harris County about \$5 million as a result of the company's leaky storage tanks. Two months later, state Rep. Charlie Geren, R-Fort Worth, introduced a bill to limit local governments' ability to prosecute polluters.

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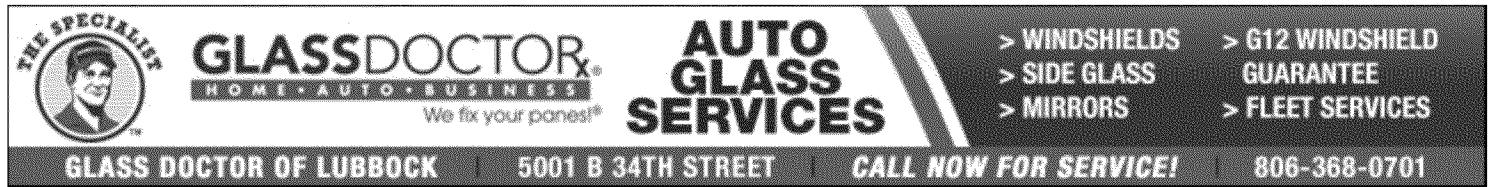
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Texas Tech Researchers Help Assess

damage of toxic river spill

By Alyssa Goard | agoard@kamc.tv (mailto:agoard@kamc.tv)

Published 08/31 2015 01:59PM Updated 08/31 2015 02:47PM



Lubbock, TX

A team of Texas Tech researchers are headed to northwest New Mexico to help assess the damage from the toxic spill into the Animas river.

In early August, a team of EPA workers mistakenly released 3 million gallons of toxic water (<http://www.everythinglubbock.com/news/kamc-news/new-mexico-faces-damage-after-toxic-river-waste-threat-is-low-in-west-texas>) from a mine in Durango Colorado into the Animas river. That spill captured public attention because it transformed the river, giving it a mustard yellow color. The toxins from that spill have now flowed downstream into New Mexico.

Monday, Dr. David Weindorf, Associate Dean for Research at Texas Tech's College of Agricultural Sciences and Natural Resources, and two graduate students will travel to the Animas river in New Mexico to measure the damage from that spill. They will be based out of Farmington, NM and focused on assessing the metal content in farms that are irrigated with water from the Animas river.

"The water flowing through the river now is relatively clean compared to what it was," Dr. Weindorf explained. "But the concern now is, as the initial contaminant plume came down the river, some of the farmers along the river were irrigating with that water at that time. So they're worried that some of the contamination made it onto the farm fields."

New Mexico's State Natural Resources Conservation Service sought out the Texas Tech researchers to help them in assessing damage. Texas Tech's Soil Sciences department is known for their research and their x-ray fluorescence tools which can detect metals and toxins in soil.

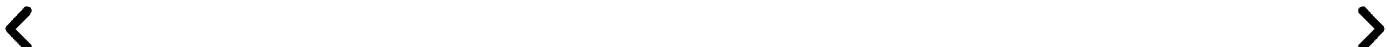
"It's my understanding that the two prevalent metals we should expect to find are lead and arsenic," Weindorf said. He also said that it may be tough to predict which farms are impacted by these toxic metals because different farms have irrigated with the Animas river water at different times.

Weindorf adds that this research is a big opportunity for Texas Tech to showcase their soil tools and research.

"Rarely is there an opportunity for us to have some type of national coverage for the type of research we're doing next week and this type of research is directly applicable to environmental health and human health," Weindorf said. "If we find there's pollution on some of these farms, it's important because the EPA will want to know where they need to go and conduct cleanup activities. Once those cleanup activities have taken place, we will want to go back and verify that those soils are clean and healthy."

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EPA granted access to land in county used for dumping chat

Jim Ellis jellis@miaminewsrecord.com | Posted: Monday, August 31, 2015 1:22 pm

MIAMI – Ottawa County Commissioners approved a measure that allows the Environmental Protection Agency access to a parcel of land in the Meh Hunka Zhe Ka Beaver Allotment in the county during their weekly meeting Monday morning.

The area, which covers approximately 200 acres in eastern Ottawa County, has been used for a dumping area for chat for years.

“The end goal is the property will be cleaned up,” Trenton Stand, director of realty for Downstream Casino, told the commissioners.

Stand said data will be collected from a creek that runs through the area.

In other action, the commissioners:

- *Approved a bid from Tri-State Asphalt of Quapaw for a road paving project on South 705 Road;
- *Approved authorization for Ottawa County to submit a sub-grant funding application for the Emergency Management Performance Grant for fiscal year 2016;
- *Approved, pursuant to the Public Competitive Bid Act, the award of a quote to Workhorse Solutions to purchase and erect a 30 foot by 80 foot Red Iron building on behalf of the Afton Fire Department;
- *Approved authorization to provide Supplemental and Modification Agreement No. 2 for county improvements for roads and bridges project agreement with the Oklahoma Department of Transportation, and
- *Approved an annual memorandum of agreement with the Cherokee Nation.

Because of the Labor Day holiday, the commissioners' next meeting will be Tuesday, Sept. 8 at 9 a.m. in the Ottawa County Courthouse.



Everything New Orleans

Brain-eating amoeba kills 14-year-old Houston star athlete, CNN reports

Benjamin Alexander-Bloch, NOLA.com | The Times-Picayune By Benjamin Alexander-Bloch, NOLA.com | The Times-Picayune

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on August 31, 2015 at 11:52 AM, updated August 31, 2015 at 1:28 PM

A **brain eating-amoeba**, which **killed** a boy in St. Bernard Parish in 2013, claimed the life Sunday (Aug. 30) of a 14-year-old Houston star athlete, **CNN reports**.

Michael John Riley Jr., who qualified for the Junior Olympics three times in track, was just days away from starting his freshman year of high school, **according to CNN**.

Officials believe Riley contracted the **Naegleria fowleri** amoeba while swimming with his cross-country team on Aug. 13 at Sam Houston State Park in Texas, according to news reports.

"It is with a heavy heart that we tell you, Michael John Riley Jr. lost his battle on this earth but won a victory for his place in the arms of our Lord Jesus Christ," his family wrote Sunday **on its Facebook page entitled "Miracle 4 Michael."** "Michael fought a courageous fight over the past week, allowing him to move on to be with the Lord for future heavenly tasks, a beautiful set of wings, and a pair of gold running shoes."

A **GoFundMe page** is set up for Michael's family.

In St. Bernard, a Mississippi boy, Drake Smith Jr., died in August 2013 from the infection he contracted while playing on a Slip 'n Slide in Violet the previous month. The state Department of Health and Hospitals said he

died from primary amebic meningoencephalitis - commonly known as PAM - the brain infection caused by the amoeba entering the nose that leads to the destruction of brain tissue.

Smith's family subsequently sued the parish arguing that it was liable for his death, and the parish and the family **settled that suit** earlier this month.

In July, the Louisiana Department of Health and Hospitals announced that it had once again found the deadly amoeba in the parish's water system during testing in June. The parish currently is undergoing a chlorine burn, where additional chlorine that kills off amoeba is pushed into the system.

In part as a result of Smith's 2013 death, state DHH in November 2013 **adopted an emergency rule** increasing the minimum disinfectant levels required for public water systems, for both chlorine and chloramine, to at least 0.5 milligrams per liter.

That rule also raised the required number of samples taken each month for both chloramine and free chlorine systems by 25 percent, and it laid out a more detailed process for monitoring, recording and reporting the disinfectant levels of public systems.

The deadly amoeba can survive and thrive in water that has chlorine levels at 0.4 milligrams per liter or below.

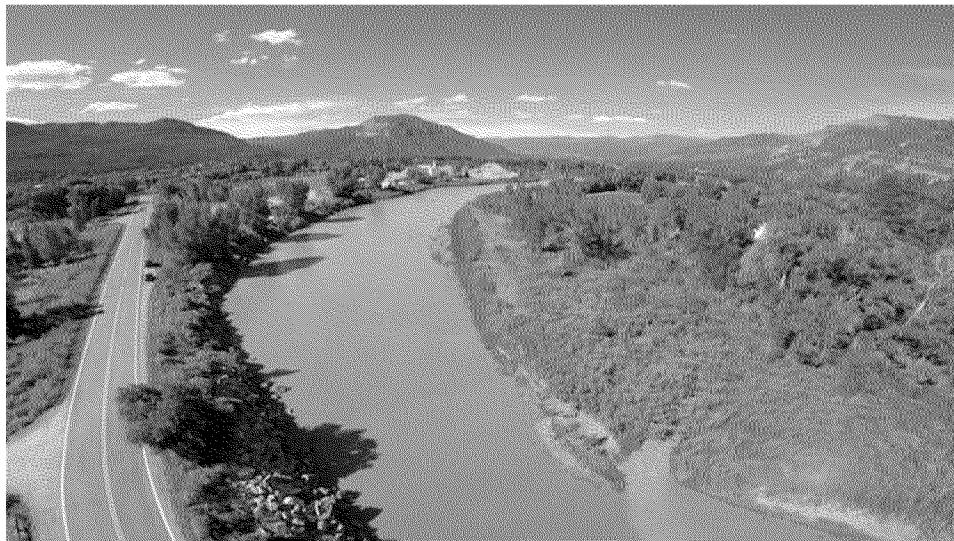
In October 2013, the family of Jeffrey Cusimano, whose St. Bernard death in 2011 was linked to the same amoeba, **settled its lawsuit** against NeilMed Pharmaceuticals Inc., maker of a "neti pot" that the 28-year-old used to clean his sinuses with water, and Rheem Manufacturing Co., which made a water heater in his home.

The Cusimano family still has a suit pending against St. Bernard.

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Navajo Nation preps lawsuit against EPA over mine spill



Getty Images

By Kevin Cirilli - 08/31/15 04:48 PM EDT

The Navajo Nation is preparing for a legal battle against President Obama's Environmental Protection Agency (EPA).

The tribe contends that the EPA's Aug. 5 accident in Colorado, which made national headlines after turning portions of the Animas River bright yellow, also leaked hazardous substances into the San Juan River — one of the Navajo Nation's primary water sources.

Now, they've hired law firm Hueston Hennigan LLP to represent them in what some are predicting could be a multibillion-dollar lawsuit expected to be filed in the coming weeks, as lawmakers on Capitol Hill prepare for a round of hearings examining the issue.

And heading their legal team is powerhouse attorney John Hueston, who was the lead prosecutor in the 2006 case against former Enron executives Kenneth Lay and Jeffrey Skilling, who were found guilty of fraud and conspiracy.

Russell Begaye — president of Navajo Nation, which totals roughly 300,000 people — also sent a letter to Federal Emergency Management Agency (FEMA) officials on Monday, calling on them to appoint a FEMA official to coordinate their efforts in the response to the spill.

"This expansion into Navajo lands via the San Juan River has critically impacted the River and its dependent ecosystems including wildlife, fish populations, and the land base adjacent to the River," Begaye wrote in the letter, first obtained by The Hill.

He said that "the nature of this toxic chemical spill will acutely and chronically impact the River and dependent ecosystem if immediate and effective corrective actions and remedies are not taken."

Navajo Nation Attorney General Ethel Branch said in a statement that the hazardous-material spill "has been devastating to our culture and economy, as well as to the peace of mind of our people."

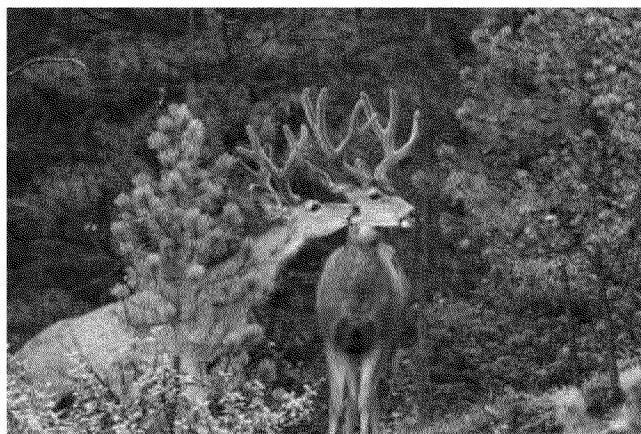
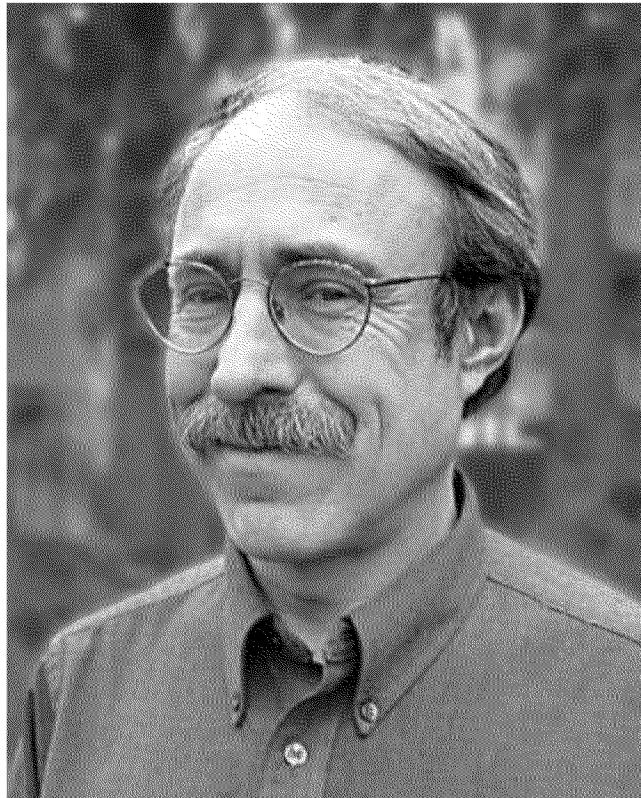
"With unknown amounts of this fine sediment in our water we now face the risk of reliving this nightmare with every major increased water flow event affecting the river," she said in a statement.

EPA officials have previously announced that they've launched an internal investigation into the spill.

Navajo leaders say EPA officials accidentally released about 3 million gallons of water contaminated with arsenic, lead and cadmium after officials were inspecting a mine.

August 31, 2015

EPA prevented toxic brew from moly mine



Photographer Bill Linfield spotted these two bucks in the woods above Breckenridge Friday morning.

EPA prevented toxic brew from moly mine

QUESTA, N.M. – The Rio Grande flows past Taos. Could it have become as polluted from mining as the Animas River was through Durango?

The Taos News asks that provocative question. Taos has a molybdenum mine near Questa and one mine reclamation expert said that the potential was there for much worse pollution than what came from the Gold King Mine above Silverton.

There were differences. The molybdenum mine operated at Questa until last year, and its owner, Chevron, has deep pockets. The Gold King Mine hasn't operated in almost 100 years. It has owners, but not ones with deep pockets. And the inter-related mine workings above Silverton are far more complicated.

But New Mexico was galvanized in the 1990s by a fear that Molycorp, the owner of the molybdenum mine, would go bankrupt or simply abandon its mine. In time, said J.R. Logan, the reporter for the Taos News, the underground molybdenum mine would have produced a toxic brew that would have caused damage far greater than seen this month on the Animas.

To prevent that from happening, the New Mexico Legislature adopted a law in 1993 that got tough with mining companies, said Jim Kuipers, a consultant on mine-related environmental and reclamation issues, with experience at both Questa and Silverton.

“New Mexico really got its act together,” Kuipers said. Colorado, he added, was less aggressive in holding mining companies accountable for messes.

Even so, remediation action would probably have gotten bogged down in an endless legal battle had not New Mexico Gov. Gary Johnson, a Republican, invited participation by the federal Environmental Protection Agency.

“When EPA showed up, it’s not like everyone was thrilled,” Kuipers said. “But there was a recognition that, without EPA’s authority, it wouldn’t get done.”

EPA since then has forced the mine owner to the table and has set in motion an \$800 million cleanup that will be paid by the company. Kuipers said the Superfund process quantified how much damage the mine caused, and how much it would have to clean up.

Rachel Conn, of the Taos-based environmental group Amigos Bravos, told the Taos News that details of specific remedies remain to be worked out at Questa.

But I think we’re in a lot better position here than they are on the Animas River,” she said.

Animas River water clean enough to chug

DURANGO – Just how toxic was the spill of water from a gold mine into the Animas River?

Not as much as you might think, say government officials. Within a week of the spill, Gov. John Hickenlooper was sipping from a bottle of river water, purified with iodine, just as backpackers do to eliminate giardia from backcountry creeks.

“If that shows that Durango is open for business, I’m happy to help,” Hickenlooper explained. A former geologist and brewpub entrepreneur, Hickenlooper had once nursed fracking fluid to demonstrate its relative safety. He didn’t use iodine in that case.

In Durango, Mayor Dean Brookie also made the case for the safety of water drawn from the Animas River for drinking and irrigation.

“I can assure you that the water coming out of your tap has been more highly tested than any bottle of water on the shelves of City Market,” he said at a public meeting.

EPA toxicologist Kristen Keteles tells the Durango Herald that it’s all about dose.

“I keep telling people ... that the dose makes the poison,” she said. “Even water can be toxic if you drink enough. And people are getting more arsenic if they drink apple juice or more mercury if they eat tuna than they’ll get from the Animas River. We can’t eliminate chemicals entirely.”

As for dead fish in the Animas River, yes, they’ve been seen and are being tested. But Joe Lewandowski, a spokesman for Colorado Parks and Wildlife, warned against making too much of them.

“I don’t want to underplay what’s happened, but fish die, just like people die,” he said

But downstream, on the Navajo Nation, tribal officials barred use of the water for fears of contamination. This means a reduction in this year’s yield of corn seeds and pollen.

“The corn is our sacred plant,” Franklin Miller, who is helping organize the tribe’s response to the Gold King Mine spill, told the Herald.

Crested Butte wants state backup on mine

CRESTED BUTTE – The spilled drainage from the mine above Silverton has caused Crested Butte and Gunnison County to consider the vulnerability of their situation. There, contaminated water from the old Standard Mine is cleaned up before it enters Coal Creek, which flows through Crested Butte, providing drinking water as well as water for recreational purposes.

But what if the mining company that operates the treatment plan should go bankrupt?

With that in mind, town and county officials last week sent a joint letter to the Colorado Department of Public Health and Environment requesting assurances that the state would step in and ensure water treatment. They say that local governments would be unable to respond adequately to the release of untreated mine drainage.

The Crested Butte News notes that the wobbly financial position of the mining company is a consideration, but so is the fact that the treatment plant uses outdated technology and now operates 20 years beyond its expected life.

A smoky pall cast on the Rocky Mountains

WHISTLER, B.C. – An old axiom of the news business is that it's news when a man bites a dog, not the reverse.

That said, where was it not smoky over the weekend in the Rocky Mountains? Almost everybody was talking about the shrouded skies that cause a vague sense of unease. "Choking on West Coast smoke up here!" wrote an Aspen resident Saturday.

"Smoke from all the fires west of us is the heaviest we've ever seen in 17 years," reported a resident of Red Lodge, Montana, during a weekend trip to Yellowstone Lake. "But the Wall Street Journal tells me we don't have global warming!"

In Sandpoint, Idaho, a resident along the shores of Lake Pend Oreille reported too much smoke to see more than 2 miles. With that much smoke, people are advised to stay indoors.

It was hazy in Taos, New Mexico, too, and even more so in Santa Fe.

"Most of this haze is associated with the large fires in the Pacific Northwest," Pat Pacheco, fire management officer at the Bureau of Land Management Taos Field Office, told the Taos News.

The National Interagency Fire Center reported 76 active large fires, mostly in the Pacific Northwest.

With the USA Pro Cycling Challenge?

DENVER – The USA Pro Challenge wheeled through Colorado last week, attracting large crowds and international television coverage.

But after five years, reports Jason Blevins of the Denver Post, the event still lacks a title sponsor that will keep it alive. Losses for the bicycle races have dropped from an estimated \$10 million the first year to \$2 million this year.

In this quest for financial sustainability, the USA Pro Cycling Challenge is hardly alone, reports Blevins. Bike races across the world often struggle to find and sustain sponsors.

There may be additional problems for this event. It was launched and is owned by Rick Schaden and his father Richard, who launched the Smashburger, Quiznos and Live Basil restaurant chains. Rick Schaden's business reputation has been marked with contentious lawsuits. One unnamed source, identified as "one of the most influential players in Colorado's tourism industry," said: "A lot of people have looked at this race, but they have shied away from any association with the owners."

Steve Maxwell, a business analyst and cycling advocate, sees a broader problem.

"You can target a very attractive demographic with bike racing, but apparently that demographic is not big enough to bring in the really big sponsors," Maxwell said. "And unfortunately, the sport keeps shooting itself in the foot with the doping allegations. All that eventually translates into sponsorship troubles."

Colorado's last big bicycle race was sponsored by Coors. The race series ran from 1979 to 1988, when it died after Coors pulled its support.

The Schadens have homes in Aspen, and the town has been on the race circuit every year. Similar to other host towns, it also pays for the privilege, this year at a cost of \$300,000 in cash and in-kind services, including \$50,000 worth of room nights for racers and support staff. About half of the money came from Aspen's city government, reports the Aspen Daily News, citing a city memo.

What does Aspen get out of this? Not necessarily a bump in receipts at cash registers, at least not directly. But last year's event gave the Aspen area two-and-a-half hours of television exposure. That coverage reached 15 million in Europe. In the United States, cable ratings were comparable to an NHL hockey game or an MLS soccer game, according to Aspen special events director Nancy Lesley.

Leadville has races, but economy still struggles

LEADVILLE – Will Leadville ever be able to carve out a good living as a tourist town? It was a mining town for so long, until the giant molybdenum mine straddling the Continental Divide at Fremont Pass, 12 miles distant, closed in 1981.

With that economic collapse, there was a mass exodus from Leadville — and plenty of cheap rooms for people working in the Vail Valley and Summit County, 30 to 45 minutes away.

Could Leadville gain a new existence by hosting summer running and bicycling events? Writing in the Denver Post, Joey Bunch reports only so-so results. Certainly, Leadville has gotten on the national map for something other than mining. The Leadville 100, starting from an elevation of 10,280 feet, draws some of the world's best athletes.

But the racers come and leave. It's partly because there's not much at Leadville to keep them there other than the magnificent mountains and the brightly painted Victorians. The town has just eight motels, most of them not the sort that are favored by modern travelers.

Further, Leadville isn't exactly flush. One indicator: 67 percent of the schoolchildren in Lake County qualify for free or reduced lunches, compared with 42 percent statewide.

In his research, Bunch also found a conflict about just what sort of tourism Leadville should seek. Some, said municipal judge Neil Reynolds, indicate that the town should make a consistent pitch for people interested in history, and that the athletic events get in the way of that appeal.

"If the races were as good as they say it is for the economy, we'd be seeing new hotels and restaurants. But anybody with any business sense knows you can't operate a year-round economy based on four weekends a year," Reynolds said. "But you can ruin one."

This discussion is different than those during the 1970s, when the Climax Mine had more than 3,000 employees and the mine provided a huge property tax base, dwarfing the tax rolls of Aspen, Vail and Summit County.

Climax reopened permanently in 2011 but employs only 350 people, a tenth of the former staff — and has a hard time finding people with mining skills.

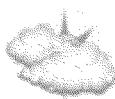
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Arguments OK'd in scope of injunction against federal water rule

By The Associated Press

This article was published August 31, 2015 at 1:03 p.m.

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BISMARCK, N.D. — A federal judge in North Dakota is allowing arguments over the scope of his injunction blocking a new rule that would give the federal government jurisdiction over some smaller waterways.

U.S. District Judge Ralph Erickson in Fargo last week issued a temporary injunction requested by North Dakota, Arkansas and 11 other states to stop the U.S. Environmental Protection Agency and the Army Corps of Engineers from regulating some small waterways under the Clean Water Act.

The EPA said the injunction applied only to the 13 states that sued. But North Dakota Attorney General Wayne Stenehjem, who filed the injunction request, said his reading of the ruling was that it applied to all 50 states.

The judge gave attorneys until Tuesday afternoon to file briefs on the issue.

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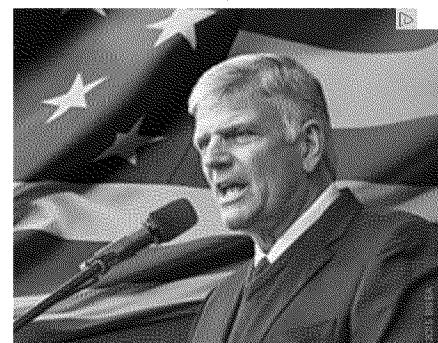
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Everything New Orleans

Courts rule differently on federal water rule, making status unsettled

Bill Cassidy

Sen. Bill Cassidy, R-La., opposed federal water rule that's now unsettled by conflicting federal court rulings.
(AP Photo/Molly Riley)

Bruce Alpert, NOLA.com | Times-Picayune By **Bruce Alpert, NOLA.com | Times-Picayune**

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on August 31, 2015 at 5:18 PM, updated August 31, 2015 at 5:22 PM

WASHINGTON – Three separate federal court rulings have left unsettled the status of the Obama administration's controversial plan to expand federal Clean Water Act authority over streams and wetlands.

A federal judge in North Dakota last week granted a preliminary injunction against implementation of the rule, but two other federal judges declined to do the same. EPA said the split rulings mean the rule, designed to re-extend protections within the watersheds of rivers and streams, can move forward, except in the 13 states covered by the North Dakota lawsuit. Louisiana is not one of the 13 states.

The EPA was planning to implement the new rule, along with the Army Corps of Engineers, on Friday (August 28).

In the end, the Supreme Court may need to settle the rule's legal status.

North Dakota Federal Judge Ralph Erickson ruled Thursday that the challengers to the new rule were likely to prevail in a challenge that contends the Obama administration is overstepping the U.S. Supreme Court's standards for federal water regulations. Erickson was appointed to the court by former President George W. Bush.

Some environmental groups decried his ruling.

"This is a terrible decision for the 1 in 3 Americans who have already been waiting too long for these vital protections for their drinking water," said Madeleine Foote of the League of Conservation Voters. "The District Court for North Dakota's decision puts the interests of big polluters over people in need of clean water. Blocking the implementation of the Clean Water Rule leaves in place an unworkable status quo that jeopardizes the clean water our families, economy, and communities depend on."

Louisiana lawmakers have consistently said the new rule would be a threat to Louisiana farmers and other land owners.

"The Clean Water Act clearly states it is the 'policy of Congress to recognize, preserve, and protect the primary responsibilities and rights of states to prevent, reduce, and eliminate pollution,'" said Sen. Bill Cassidy, R-La. "Despite this partnership and the limits to federal authority, the president and his administration, along with some lawmakers, have sought in recent years to clarify and extend the scope of Federal jurisdiction under the Clean Water Act in a manner that would expand the Federal Government's ability to regulate waters of the United States--in short, a federal power grab."

Said Sen. David Vitter, R-La. "Changing the scope of the law, including the Clean Water Act, is solely the responsibility of Congress. Yet, the President's administration has again elected to bypass the legislative process by finalizing this rule."

But EPA Administrator Gina McCarthy said that the new rule provides important protection.

"For the water in the rivers and lakes in our communities that flow to our drinking water to be clean, the streams and wetlands that feed them need to be clean too," McCarthy said. "Protecting our water sources is a critical component of adapting to climate change impacts like drought, sea level rise, stronger storms, and warmer temperatures – which is why EPA and the Army have finalized the Clean Water Rule to protect these important waters, so we can strengthen our economy and provide certainty to American businesses."

She said the rule was modified to reflect concerns of business groups.

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Article published Aug 31, 2015

Brushes with disaster

While mine spill was bad, it pales before Hurricane Katrina

Comparing the initial events associated with the unexpected water release from the Gold King Mine above Silverton with the landfall of Hurricane Katrina at New Orleans 10 years ago provides some initial, but limited, comparisons. For the residents of New Orleans it was much, much worse, multiplying the spill by a factor of thousands, the hurricane's effects on New Orleans and the pain, missteps and confusion that followed. More than 1,000 in that city would die.

The EPA and its contract crew at the Gold King apparently had not planned for the worst as it probed the plug at the mine's entrance, and the federal agency, as the spill was occurring, lacked the quick-response skills necessary to react and to alert downstream water users on the Animas River in a timely fashion. (This is a case of it being fortunate that mineral-laden hard-rock mining goes on high above fertile plains, and that the distance between the mine and the inlet structures on the Animas for irrigation ditches and potable water systems allowed many hours to pass.)

For the EPA, the spill travelling the Animas, San Juan and Colorado rivers would cross three of its administrative regions.

Ten years ago, the levees that were to protect New Orleans, a city that is largely below water level, would prove to be inadequate and with design flaws. That was a federal failure, over decades. And, had the natural marshlands between the city and ocean not been reduced in size by expanded river channels and economic development, some of the force of the storm would have been blunted. That environmental factor had not been fully appreciated.

The failure of governments to act was extreme. The federal government's response agency stood by, only partially equipped and organized and led by a political appointee, while the city of New Orleans and the state of Louisiana failed to shape and to coordinate the needed responses. There had been no planning, even to respond to more minor events. Days were to go by before thousands of New Orleans residents were rescued from their homes, apartment and hospital rooms, or moved from temporary gathering locations such as the Superdome. Temperatures were high, water, food and simple medical care lacking. Some emergency workers put assisting their families above their civic responsibilities, and staffing and law enforcement were lacking. There was violence.

When the city finally dried out, different challenges emerged. There was uncertainty within families and neighborhoods as to whether to rebuild or to relocate, and bureaucracies were an

obstacle. Some homeowners rebuilt only to discover that now they were among many still-damaged and condemned structures. Understandably, some who had lost their homes believed their future would be better in other cities, and that this was an opportunity. Some small businesses did not come back, schools were relocated – charter schools were a fresh start in replacing the sluggish traditional public-school system, causing uncertainty – and neighborhoods changed in character. That continues to be the case today.

Healing on the scale that New Orleans faced does not come in the same form, or at once.

With a warming planet, expect extremes in weather to become more commonplace. Coastal areas, which in this country and elsewhere can be heavily populated, will be vulnerable. What was learned following Hurricane Katrina – the much that went wrong, the little that went right – could too easily serve as a model. Next time we will have to do much better.

As to the southern San Juan Mountains, we now have a greater appreciation for the inherent dangers that exist in those mineral-laden mountains, dangers that have been exacerbated by mankind.



August 31, 2015, 06:30 am

EPA's Clean Power Plan and Europe's folly

By Kathleen Hartnett White, contributor



Getty Images

The Environmental Protection Agency's (EPA) final Clean Power Plan (CPP) to reduce carbon dioxide pulls a colossally damaging and futile national energy plan out of a bureaucrat's hat. Who needs congressional authorization by law to dismember the engineering marvel that is our national electric power system? The EPA "architects" may have lots of letters behind their names, but their federal plan to overhaul the U.S. electric "machine," as the agency now calls it, belies fundamental physical and economic energy realities.

The EPA substantially upped the ante of the CPP in the final rule. The plan now aims for the full monty of green orthodoxy: a mandatory path toward a zero-carbon electric sector. At the proposal stage, the rule envisioned that more natural gas-fueled electric generation would replace most coal-generated electricity. The plan finalized in early August assumes static or declining use of natural gas. This major change from the initial proposal carries far higher risks and costs. The agency apparently has concluded that building new natural gas plants will delay achieving the ultimate goal of decarbonization, an objective casually asserted by President Obama.

Thus, the EPA now looks to supposed zero-carbon renewable energy sources to fill the huge gap created by an EPA-induced retreat from natural gas. According to the rule language: "Emission reductions achieved through the use of new Natural Gas Combined Cycle Capacity (NGCC) require construction of additional [carbon dioxide] emitting generation capacity, a consequence that is inconsistent with the long term need to continue reducing [carbon dioxide] emissions beyond those achieved in this rule."

The role of natural gas as the "bridge" fuel to the future — long understood as the only viable lower-carbon alternative — may be quite short. To compensate for less natural gas in the generating mix, the EPA assumes that renewable electric generation in the U.S. will more than triple within the next 15 years. The EPA calculates renewable generation in 2012 — an anomalously high year because the federal subsidy was soon to expire — at approximately 218 million megawatt hours (MWh). By 2030, when the CPP is in full effect, the EPA expects renewables will generate 706 million MWh — an uncanny growth rate of 314 percent in just 15 years.

This wildly optimistic assumption may trump Germany's "Energy Revolution," considered the most radical rush to renewable energy in the world. The EPA's ambitious plans for renewable energy — predominantly through onshore wind facilities — would force the U.S. on a path similar to that legislated several years ago in Germany and Britain. The European schemes may have put lots of renewable energy on their electric grids but with grave, counterproductive impacts. Major European and U.S. media report on the European rush to renewables as "environmental lunacy" (*The Economist*) that has become a "fatal blunder with ugly consequences" (*Die Zeit*). With retail electric rates three times higher than the average U.S. rate, Germany's *Der Spiegel* writes that electricity has become a "luxury good" for low- and middle-income families. Yet, the European energy debacle is never meaningfully raised in discussions about renewables.

U.S. policymakers must scrutinize the results of Europe's misinformed gamble that intermittent renewable energy can handily replace coal and natural gas as mainstay fuels for electricity. Now that the EPA would force dependence on wind and solar generation at a massive scale, we need to absorb the lessons of Europe.

Germany, with Britain close behind, made gross miscalculations about the cost of renewable subsidies, the engineering complexity of integrating large volumes of uncontrollable renewable power, and the widening financial losses in renewable industries, conventional electrical utilities, key energy intensive industries, related investors, shareholders and consumers. As a result, everybody has lost.

Germany has learned that when the renewable share of total generation approaches a certain percentage, the risk of grid instability soars and necessitates completely redundant backup power. Furthermore, generation from coal or natural gas — the carbon sources — are capable of ramping up and down in an instant when wind speeds and cloud cover fluctuate. A German transmission operator reported that interventions

to stabilize transmission rose from two in 2002 to more than 1,200 in 2013!

In the ultimate green irony, Germany is now subsidizing construction of 10 new (lignite) coal-fired power plants to ensure enough backup power. Wood has returned to the power scene because at least it is reliable, now accounting for around 40 percent of Germany's renewable portfolio. Yes, Germany is using more and more renewable energy, but the country's carbon dioxide emissions are rising and subsidies are ballooning. Former minister of the environment, Peter Altmaier, estimates the subsidies will approach a \$1 trillion by 2022.

Modern systems of electric power have achieved phenomenal precision, efficiency and reliability through the integrated operations of conventional power plants, electric grids and transmission networks. Supply, affordability, reliability and safety have long been the controlling priorities. The carbon content of generating fuels, however, has now become the overarching priority for dispatch to the grid — a criterion at odds with previous priorities.

An accessible, affordable, reliable and versatile electric power system is a sine qua non of healthy, prosperous societies. Now that the EPA has marshalled coercive federal power to weaken our electric power supply, a candid review of Europe's folly is crucial.

White is distinguished senior fellow for energy and environment at the Texas Public Policy Foundation and former chairman of the Texas Commission on Environmental Quality.

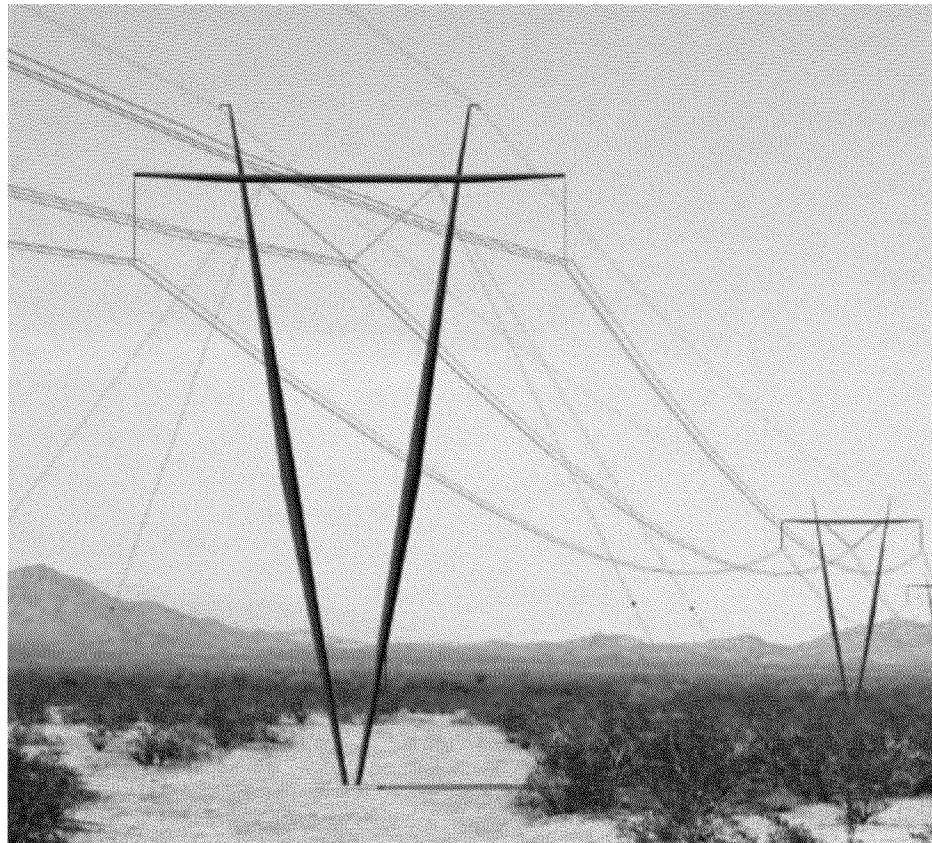
TAGS: Germany, Environmental Protection Agency, EPA, Clean Power Plan, Renewable energy, zero carbon, Energy Revolution

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SunZia transmission line holds to original route

Jason Gibbs / Las Cruces Sun-News, N.M. (TNS)



LAS CRUCES — The SunZia power transmission line, planned to carry renewable energy across New Mexico, Arizona and California, appears to be back on its original track following a request by the State Land Office to review a route north of the White Sands Missile Range call-up area.

A spokesman for SunZia said the company has decided against the route north of White Sands because it would not "materially benefit" the missile range's operations compared to the preferred route and that it would add costs to the project.

At issue were concerns by Land Commissioner Aubrey Dunn that the proposed route would affect White Sands' call-up area used for military training and missile testing. The area can be evacuated as needed by the military.

The 515-mile, extra-high-voltage transmission line is designed to transmit up to 3,000 megawatts of renewable energy from New Mexico and Arizona to utilities across the Southwest. The preferred route, which goes into White Sands' northern extension area, was approved by the U.S. Department of the Interior in January and by the State Land Office and the U.S. Department of Defense.

"At the request of the State Land Office, the SunZia project team and the Department of Defense recently reviewed a new alignment located north of the White Sands Missile Range's northern call-up area boundary," said Ian Calkins, spokesman for SunZia. "This alignment would have avoided most of (White Sands') evacuation areas."

Calkins said SunZia decided against the alignment because it did not "materially benefit" White Sands operations compared to the preferred route and would add costs to the project.

Dunn said the decision not to move the line is still of concern, but the state worked with the company to minimize the impact on the missile range and state historical assets.

SunZia will bury about five miles of the transmission line to minimize the impact on the call-up area.

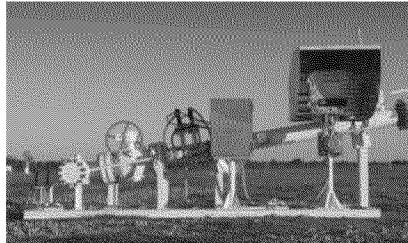
Amid public concerns and uncertainty about impacts to state trust lands, Dunn suspended SunZia's right-of-entry permit in early 2015 and sought additional public comment to review the proposed project. During the public meetings, many landowners expressed concern regarding the project's siting and adequate compensation for rights-of-way across their lands.

SunZia will continue to coordinate with the land office for right-of-way leases over state trust lands in the BLM's preferred alternative route, Calkins said. About 89 miles of the project in New Mexico traverse state trust lands. Final engineering and acquisition of private right-of-way is expected to take 18-to-24 months to complete. The company plans to begin construction in 2018 and be in service by late 2020.

Squealing 'pigs' work to keep pipelines safe

by Adam Wilmeth Published: August 28, 2015

TULSA — To keep the country's pipeline infrastructure safe and free of leaks and accidents, operators turn to a variety of foam or metal contraptions affectionately known as pigs.



Pigging-automated systems are seen. [Photo provided]

Named in part for the squeal they shriek as they squeeze through the pipes that crisscross the country, pipeline pigs are used for variety of purposes, including safety inspections, cleaning, applying coatings to the inside of the pipe and separating different blends of crude oil or other product.

"Pigging is an essential component of the pipeline lifeline," Stephen Miska, production manager for pigging technology at Tulsa-based T.D. Williamson, said this week during The Pipeline and Energy Expo in Tulsa.

So-called "smart" pigs, laden with scanners, X-rays and other high-tech equipment, are used to detect microscopic cracks and other problems, hopefully before a pipeline fails. Other pigs carry brushes and scrapers to break down and remove clogs or buildup along the way.

"Pigging essentially keeps the line free of debris and other contaminants that could impede an inspection tool run," Miska said. "Debris, if not removed, can accelerate corrosion and increase the chance of failure."

Some pipes are a challenge

The U.S. Department of Transportation requires most pipelines to undergo pig cleaning at least once every five years. Most pipes installed since the 1970s have been designed to handle the equipment, but many operators of older pipes have had to smooth out bumps or angles and add equipment to make their legacy pipes "piggable."

"The older lines are the more challenging circumstances," Miska said. "When lines were built in the '50s or '60s, pigging wasn't taken into account."

About half of the country's legacy pipes so far have been modified to accept the more modern cleaning machines, Miska said. Even after the upgrades, pigging older pipes often proves difficult, he said.

"When you're setting up a line that hasn't been cleaned in a long time, running a pig for normal application would not be safe," he said. "You have to start with less aggressive pigs and work your way up to scrubbers, gradually removing debris to get to the point where a line is cleaned to a certain specification."

Despite the added effort, such maintenance is essential for the country's older pipelines, Miska said.

"It's really important, especially if they're operating at pressures close to their initial design," he said. "There's not much allowance for any type of metal loss or decay inside the line. The longer the pipe's been around, the more chance there is for corrosion. If there are any cracks, the older lines could be more at risk."

Pipeline safety consultant John Godfrey praised the efforts to clean and inspect older pipes and said the heightened focus on safety throughout the industry is essential.

"Failures don't have impacts to just one segment of industry," said Godfrey, principal consultant with DNV GL. "They tend to impact broad industry as a whole when they occur. Managing our pipeline integrity has become more important than just our own internal businesses."

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Womack praises N.D. court's injunction against EPA water rule

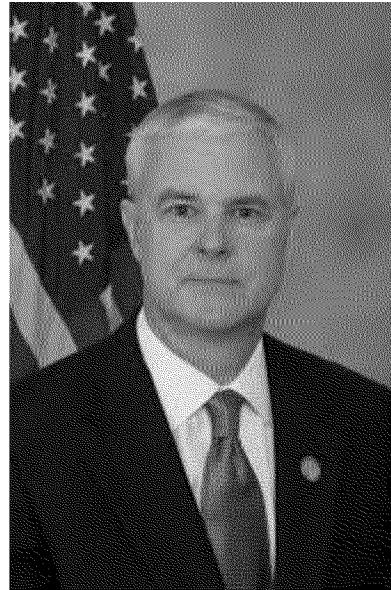
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Responding to the recent decision by North Dakota's U.S. District Court to grant a preliminary injunction against the Environmental Protection Agency's (EPA) controversial Waters of the United States (WOTUS) rule, U.S. Rep. Steve Womack (R-AR) released a statement in support of the action on Monday.

"As I have traveled the Third District, I have been overwhelmed with the number of Arkansans that will be egregiously harmed by the outrageously overreaching Waters of the United States rule," Womack said. "This preliminary injunction is the first of many dominoes that will fall throughout the process of stopping

WOTUS.

"The House has already passed the Regulatory Integrity Protection Act, and I am hopeful that our colleagues in the Senate will put this critical legislation, which dismantles as much of this harmful rule as possible, on President Obama's desk."

Womack, 58, is a native of Russellville, Arkansas. After attending K-10 in Moberly, Missouri, Womack's family returned to Arkansas in 1973, and he graduated from Russellville High School in 1975. Womack earned a bachelor's degree from Arkansas Tech University in 1979 and, after graduation, was commissioned a second lieutenant in the Arkansas Army National Guard.

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EPA climate rule could take two more months to become official



Getty Images

By Timothy Camara - 08/31/15 06:18 PM EDT

It could take up to two months for the Obama administration to make its climate rule for power plants official by publishing it in the *Federal Register*.

The Department of Justice, working for the Environmental Protection Agency (EPA) told a federal appeals court Monday that the regulation's formal publication is coming soon but could take months.

That schedule significantly delays any attempts to block the rule through the court system or through Congress, because the regulation is not official — and cannot be formally challenged — until it appears in the *Register*.

President Obama unveiled the full regulation Aug. 3, but the administration did not say until Monday's court filing that it would take months to be published.

Attorneys for the federal government cited the delay Monday in arguing that the U.S. Court of Appeals for the District of Columbia Circuit should ignore the pleas from multiple states to temporarily block the rule. Any challenges to regulations can only come after they are published, the government said.

"Publication in the *Federal Register*, while shortly forthcoming, has not yet occurred," they wrote. "Thus, both the plain terms of the [Clean Air] Act and this Court's binding precedent compel dismissal of these petitions."

Later, the attorneys said that publication "should occur within a period of less than two months."

Multiple states, led by West Virginia, plan to sue to block the regulation once it is published. But they also filed earlier this month for a judicial stay so that their states would not be harmed by the rule's requirements while they are fighting it.

But the Obama administration said the stay request is premature.

"Petitioners once again prematurely attack EPA's Clean Power Plan and attempt to bypass the straightforward, and soon available, judicial review procedures in the Clean Air Act ... by invoking the All Writs Act," the administration wrote in its filing.

"This Court has already concluded in a decision issued earlier this summer that Petitioners must adhere to those procedures in challenging the Rule," they said, citing the decision in *Murray Energy v. EPA* earlier this year, in which states and energy companies tried to challenge the proposed regulation before the final version was even announced.

The states have been asked to file a response to the EPA's brief later this week, and the court will consider the stay after that.

TAGS: Environmental Protection Agency, climate rule